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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,407	06/10/2005	Robert Dwilinski	0047/028001	1785
22893	7590	10/18/2007		
SMITH PATENT OFFICE 1901 PENNSYLVANIA AVENUE N W SUITE 901 WASHINGTON, DC 20006			EXAMINER MALEKZADEH, SEYED MASOUD	
			ART UNIT 1791	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,407	Applicant(s) DWILINSKI ET AL.	
	Examiner SEYED M MALEKZADEH	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-13 and 24-26 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-13 and 25 is/are rejected.
- 7) ☒ Claim(s) 24 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 3-13 and 24-26 are pending.

Claims 1-2 and 22-23 are canceled.

In view of amendment, filed on 08/02/2007 following rejections/objections are withdrawn from the previous office action for the reason of record.

- Rejection of claim 11 under 35 U.S.C. 112, second paragraph
- Rejection of claims 1-2 and 22-23 under 35 U.S.C. 103 (a) as being unpatentable over Dwilinski et al (US 7,132,730) in view of Anselm et al (US 6,265,322) because claims 1-2 and 22-23 are cancelled by the applicants.

Following rejections are maintained for the reason of records as given in the previous office action. The basis of these rejections are the same as given in previous office action, mailed on 04/02/2007.

- Rejection of claims 3-7, 9, 11, and 25 as being unpatentable over Dwilinski et al (2004/0238810) in

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view of Anselm et al. (US 6,265,322). Dwilinski et al ('810) also discloses the limitations of new added claim 25. Dwilinski et al ('810) further teaches a step of simultaneous creation of at least two zones with different temperatures in an autoclave. (See paragraph [0052])

- Rejection of claim 8 as being unpatentable over Dwilinski et al ('810) and Anselm et al ('322) and further in view of Hong et al. (US 6,177,292)
- Rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Dwilinski et al ('810) and Anselm et al ('322) and further in view of Tsutsui et al (US 6,248,607)
- Rejection of claims 12-13 under 35 U.S.C. 103 (a) as being unpatentable over Dwilinski et al ('810) and Anselm et al ('322) and further in view of Otsuka et al. (US 6,749,819)

Allowable Subject Matter

Claims 24 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior arts of record fail to teach or suggest a process of preparing a substrate for opto-electric or electrical devices as claimed in claims 24 and 26. The closest prior arts of record Dwilinski et al (2004/0238810), Anselm et al. (US 6,265,322), Hong et al. (US 6,177,292), Tsutsui et al (US 6,248,607), and Otsuka et al. (US 6,749,819) do not teach or suggest a process of preparing a substrate for opto-electric or electrical devices wherein the bulk mono-crystal nitride has a negative temperature coefficient solubility, as claimed in claim 24. Also the closest prior arts of record do not teach a process of preparing a substrate for opto-electric or electrical devices wherein the bulk mono-crystal nitride has a half width of the X-ray rocking curve for the (0002) plane below 60 arcsec, as claimed in claim 26.

Response to Argument

Applicant's argument filed on February 15, 2007 has been fully considered but they are not persuasive.

Applicants argue that Dwilinski et al. (US patent application publication number 2004/0238810) is not prior art to this application. This reference was based on an invention that first filed in Poland and was based on an invention that first filed in Poland and was subsequently filed in Japan as a PCT application. The PCT application published in Japanese language and therefore the U.S. patent application publication does not meet the criteria for using the PCT filing date as the reference date since the PCT application was not published in English.

This is not found persuasive because applicants attention is drawn to the point since Dwilinski et al. (2004/0238810) is a US patent application publication which has been published in the United States and therefore is not treated as an international application or PCT. Therefore since Dwilinski et al. ('810) is treated as a US publication reference and has a filing date which is prior to filing date of the instant application, therefore, Dwilinski et al. ('810) is a proper prior art for the instant application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seyed Masoud Malekzadeh whose telephone number is 571-272-6215. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on (571) 272-1316. The fax number for the

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organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published application may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM


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